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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,194	03/11/2004	Michael M. Robinson	39035/274327	5316
826	7590	07/23/2004	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			WEST, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/798,194

Applicant(s)

ROBINSON ET AL.

Examiner

Jeffrey R. West

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "21" (Figure 1), "58" and "60" (Figure 2). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

On page 10, lines 10, 11, and 18, a "process data collection device" is labeled "18" while this device is labeled "21" in Figure 1.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is considered to be vague and indefinite because it recites, "wherein said transmitting step includes transmitting instrument data other than particle counts". Parent claim 1, however, recites, "determining process data other than particle measurements" and therefore it is unclear to one having ordinary skill in the art whether the "instrument data other than particle counts" is different than the "process data other than particle measurements".

Claim 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, because they incorporate the lack of clarity present in parent claim 6.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 2, and 5-8, as may best be understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Facility Net.

Facility Net discloses a method for collecting, storing, and displaying particle measurement data from a plurality of particle measuring instruments comprising repeatedly measuring particles from a plurality of remote locations (page 1, lines 1-5 and page 20, "Networking"), calculating an accumulated particle count and a differential particle count for each remote location (page 9, lines 1-2), determining process data other than particle measurements,

Art Unit: 2857

including relative humidity, temperature, and pressure, from a plurality of remote process data measuring locations (page 1, lines 1-5), transmitting accumulated particle counts and differential particle counts and process data from each remote location via a computer network (page 20, "Networking"), wherein transmitting the process data comprises providing the process data to the computer network in a manner independent of the accumulated particle counts and differential particle counts (i.e. transmitting the particle counts and process data from the "other sensors" over separate channels) (page 21), storing accumulated particle counts, differential particle counts, and process data (page 7, lines 20-39), and displaying at least some of the accumulated particle counts, differential particle counts, and process data graphically (page 6, lines 9-37).

Facility Net also discloses that the transmitting step includes parsing the accumulated particle counts from instrument data in order to form distinct displays (page 6, lines 9-37) and discloses that the storing includes storing an associated name with the accumulated particle counts (page 7, lines 20-29).

Facility Net further discloses identifying and monitoring erroneous instrument data and displaying a graphic representation of the erroneous instrument data (page 13, "Alarms and Events").

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2857

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Facility Net in view of U.S. Patent No. 4,103,229 to Gear.

As noted above, the invention of Facility Net teaches many of the features of the claimed invention and while Facility Net does disclose grouping the particles into meaningful combinations (page 11, lines 20-35), as well as customizing the display to selectively include daily statistics, items of interest, trends, and averages (page 7, line 20 to page 8, line 22), Facility Net does not specifically include discriminating the particle counts by particle size.

Gear teaches a continuous flow resistive-particle counting apparatus including means for counting the amount of particles in a substance (column 3, lines 25-43) and means for discriminating the particles by size (column 3, lines 49-55)

It would have been obvious to one having ordinary skill in the art modify the invention of Facility Net to include discriminating the particle counts by particle size, as taught by Gear, because Gear suggests that the combination would have provided improved analysis over a wide variety of environments by including a critical factor in dynamic process control, equipment evaluation, product quality control, and research and investigation (column 1, lines 19-25).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

U.S. Patent No. 6,606,582 to Brinkman et al. teaches a universal system, method and computer program product for collecting and processing process data including particle measurement data.

U.S. Patent Application Publication No. 2003/0016128 to Lutz et al. teaches an environmental monitoring system including a plurality of sensor modules that include a unique identifier with sensed data.

U.S. Patent No. 4,612,614 to Deindoefer et al. teaches a method of analyzing particles in a fluid sample including means for displaying particle data according to particle size.

U.S. Patent No. 5,452,237 to Jones, Jr. teaches a coincidence error correction system for particle counters.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

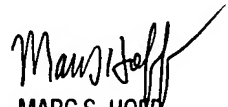
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The

Art Unit: 2857

fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jr  
July 19, 2004

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800